

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Victor Lopez,

Plaintiff,

—v—

Kahala Restaurants, L.L.C.,

Defendant.

JAN 28 2020

19-cv-10077 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On January 24, 2020 Defendant Kahala Restaurants, L.L.C. filed a motion to dismiss. Pursuant to Rule 3.F. of this Court's Individual Practices in Civil Cases, on or before February 3, 2020, Plaintiff must notify the Court and its adversary in writing whether (1) it intends to file an amended pleading and when it will do so or (2) it will rely on the pleading being attacked. Plaintiff is on notice that declining to amend its pleadings to timely respond to a fully briefed argument in the Defendants' January 24 motion to dismiss may well constitute a waiver of the Plaintiff's right to use the amendment process to cure any defects that have been made apparent by the Defendant's briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility").


If Plaintiff chooses to amend, Defendant may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that it relies on the initially-filed motion to dismiss.

Nothing in this Order alters the time to amend, answer or move provided by the Federal Rules of Civil Procedure or Local Rules.

The initial pretrial conference scheduled for April 10, 2020 is adjourned pending resolution of this motion.

SO ORDERED.

Dated: January 28, 2020
New York, New York



ALISON J. NATHAN
United States District Judge